

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

# SENATE BILL 1071

AN ACT

AMENDING SECTION 43-1183, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2006,  
CHAPTER 14, SECTION 5; RELATING TO SCHOOL TUITION ORGANIZATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 43-1183, Arizona Revised Statutes, as added by Laws  
3 2006, chapter 14, section 5, is amended to read:

4 43-1183. Credit for contributions to school tuition  
5 organization: definitions

6 A. Beginning from and after June 30, 2006 through June 30, 2011, a  
7 credit is allowed against the taxes imposed by this title for the amount of  
8 voluntary cash contributions made by the taxpayer during the taxable year to  
9 a school tuition organization.

10 B. The amount of the credit is the total amount of the taxpayer's  
11 contributions for the taxable year under subsection A of this section and is  
12 preapproved by the department pursuant to subsection D of this section.

13 C. The department:

14 1. Shall not allow tax credits under this section that exceed in the  
15 aggregate, a combined total of five million dollars in any fiscal year.

16 2. Shall preapprove tax credits subject to subsection D of this  
17 section.

18 ~~3. Shall allow the tax credits on a first come, first served basis.~~

19 D. For the purposes of subsection C, paragraph 2 of this section,  
20 before making a contribution to a school tuition organization, the taxpayer  
21 shall notify the school tuition organization of the total amount of  
22 contributions that the taxpayer intends to make to the school tuition  
23 organization. ~~THE MAXIMUM AMOUNT A TAXPAYER MAY CONTRIBUTE TO A SCHOOL~~  
24 ~~TUITION ORGANIZATION FOR THE PURPOSES OF RECEIVING A TAX CREDIT UNDER THIS~~  
25 ~~SECTION IS THE LIMIT PRESCRIBED IN SUBSECTION C, PARAGRAPH 1 OF THIS SECTION.~~  
26 Before accepting the contribution, the school tuition organization shall  
27 request preapproval from the department ~~for the taxpayer's intended~~  
28 ~~contribution amount. The department shall preapprove or deny the requested~~  
29 ~~amount within twenty days after receiving the request from the school tuition~~  
30 ~~organization. If ON OR BEFORE JULY 1, A SCHOOL TUITION ORGANIZATION MUST~~  
31 ~~APPLY TO THE DEPARTMENT, ON A FORM PRESCRIBED BY THE DEPARTMENT, AND INDICATE~~  
32 ~~THE TOTAL AMOUNT OF CONTRIBUTIONS THAT THE TAXPAYER HAS PLEDGED TO THE SCHOOL~~  
33 ~~TUITION ORGANIZATION FOR THE PURPOSES OF RECEIVING A TAX CREDIT UNDER THIS~~  
34 ~~SECTION. A SCHOOL TUITION ORGANIZATION SHALL NOT REQUEST PREAPPROVAL FOR,~~  
35 ~~AND THE DEPARTMENT SHALL NOT PREAPPROVE, ANY REQUESTS THAT EXCEED THE LIMIT~~  
36 ~~PRESCRIBED IN SUBSECTION C, PARAGRAPH 1 OF THIS SECTION. ON OR BEFORE JULY~~  
37 ~~10, THE DEPARTMENT SHALL REVIEW THE APPLICATIONS THAT WERE SUBMITTED ON OR~~  
38 ~~BEFORE JULY 1 AND PREAPPROVE THE TOTAL CONTRIBUTION AMOUNT THAT THE SCHOOL~~  
39 ~~TUITION ORGANIZATION MAY RECEIVE FROM THE TAXPAYER FOR THE PURPOSES OF~~  
40 ~~CLAIMING A TAX CREDIT UNDER THIS SECTION. IF QUALIFYING APPLICATIONS EXCEED~~  
41 ~~THE LIMIT PRESCRIBED IN SUBSECTION C, PARAGRAPH 1 OF THIS SECTION, THE~~  
42 ~~DEPARTMENT SHALL PROPORTIONATELY REDUCE THE AMOUNT OF THE CONTRIBUTIONS~~  
43 ~~ALLOWED UNDER THIS SECTION FOR EACH SCHOOL TUITION ORGANIZATION. AFTER the~~  
44 department preapproves the ~~request~~ CONTRIBUTION AMOUNTS, the school tuition  
45 organization shall immediately notify the taxpayer ~~that the requested amount~~

1 ~~was~~ OF THE CONTRIBUTION AMOUNT THAT WAS preapproved by the department. ~~In~~  
2 ~~order to receive a tax credit under this subsection, the taxpayer shall make~~  
3 ~~the contribution to the school tuition organization within ten days after~~  
4 ~~receiving notice from the school tuition organization that the requested~~  
5 ~~amount was preapproved.~~ THE TAXPAYER SHALL MAKE THE PREAPPROVED CONTRIBUTION  
6 TO THE SCHOOL TUITION ORGANIZATION WITHIN TEN DAYS AND SHALL CLAIM THE CREDIT  
7 ON THE TAXPAYER'S NEXT TAX RETURN THAT IS FILED. If the school tuition  
8 organization does not receive the preapproved contribution from the taxpayer  
9 within the required ten days, the school tuition organization MAY RECEIVE THE  
10 CONTRIBUTION FROM ANOTHER PREAPPROVED TAXPAYER UP TO THE PREAPPROVED  
11 CONTRIBUTION AMOUNT WITHIN THE FOLLOWING TEN DAYS. IF THE SCHOOL TUITION  
12 ORGANIZATION DOES NOT RECEIVE ALL OF THE PREAPPROVED CONTRIBUTION AMOUNTS  
13 WITHIN THE ALLOWABLE TIME, THE SCHOOL TUITION ORGANIZATION shall immediately  
14 notify the department and the department shall no longer include this  
15 preapproved contribution amount when calculating the limit prescribed in  
16 subsection C, paragraph 1 of this section.

17 E. IF THE DEPARTMENT ADJUSTS THE PREAPPROVED CONTRIBUTION AMOUNTS  
18 PURSUANT TO SUBSECTION D OF THIS SECTION, AND CAPACITY REMAINS BECAUSE ALL OF  
19 THE CONTRIBUTIONS WERE NOT RECEIVED, THE DEPARTMENT SHALL NOTIFY THE SCHOOL  
20 TUITION ORGANIZATIONS THAT ADDITIONAL CAPACITY IS AVAILABLE FOR REALLOCATION.  
21 THE SCHOOL TUITION ORGANIZATIONS MUST REAPPLY FOR ANY ADDITIONAL ALLOCATION  
22 WITHIN TEN DAYS. THE DEPARTMENT SHALL REVIEW THE ADDITIONAL APPLICATIONS FOR  
23 THE NEW AMOUNT NOT ALLOCATED UNDER THE LIMIT PRESCRIBED IN SUBSECTION C,  
24 PARAGRAPH 1 OF THIS SECTION. THE DEPARTMENT SHALL EITHER APPROVE OR  
25 PROPORTIONATELY REDUCE THE AMOUNT OF CONTRIBUTIONS AND NOTIFY THE SCHOOL  
26 TUITION ORGANIZATIONS WITHIN TEN DAYS. IF THE SCHOOL TUITION ORGANIZATION  
27 FAILS TO RECEIVE PAYMENT OF THE SECOND PREAPPROVED AMOUNT WITHIN TEN DAYS,  
28 THE SCHOOL TUITION ORGANIZATION SHALL IMMEDIATELY NOTIFY THE DEPARTMENT AND  
29 THE DEPARTMENT SHALL NO LONGER INCLUDE THAT AMOUNT WHEN CALCULATING THE LIMIT  
30 PRESCRIBED IN SUBSECTION C, PARAGRAPH 1 OF THIS SECTION. IF ANY CAPACITY  
31 REMAINS UNDER THE PRESCRIBED LIMIT AFTER THE REALLOCATION, THE DEPARTMENT MAY  
32 REPEAT THIS PROCEDURE UNTIL THE PRESCRIBED LIMIT IS REACHED.

33 ~~E.~~ F. A school tuition organization that receives contributions under  
34 this section shall allow the department to verify that the educational  
35 scholarships and tuition grants that are issued pursuant to this section are  
36 awarded to students who attend a qualified school.

37 ~~F.~~ G. If the allowable tax credit exceeds the taxes otherwise due  
38 under this title on the claimant's income, or if there are no taxes due under  
39 this title, the taxpayer may carry the amount of the claim not used to offset  
40 the taxes under this title forward for not more than five consecutive taxable  
41 years' income tax liability.

42 ~~G.~~ H. Co-owners of a business, including corporate partners in a  
43 partnership, may each claim only the pro rata share of the credit allowed  
44 under this section based on the ownership interest. The total of the credits

1 allowed all such owners may not exceed the amount that would have been  
2 allowed a sole owner.

3 ~~H.~~ I. The credit allowed by this section is in lieu of any deduction  
4 pursuant to section 170 of the internal revenue code and taken for state tax  
5 purposes.

6 ~~I.~~ J. The tax credit is not allowed if the taxpayer designates the  
7 taxpayer's contribution to the school tuition organization for the direct  
8 benefit of any specific student.

9 ~~J.~~ K. A school tuition organization that receives contributions under  
10 this section shall use at least ninety per cent of those contributions to  
11 provide educational scholarships or tuition grants only to children whose  
12 family income does not exceed one hundred eighty-five per cent of the income  
13 limit required to qualify a child for reduced price lunches under the  
14 national school lunch and child nutrition acts (42 United States Code  
15 sections 1751 through 1785) and who either:

16 1. Attended a governmental primary or secondary school as a full-time  
17 student as defined in section 15-901 for at least the first one hundred days  
18 of the prior ~~fiscal~~ SCHOOL year and transferred from a governmental primary  
19 or secondary school to a qualified school.

20 2. Enroll in a qualified school in a kindergarten program.

21 3. Received an educational scholarship or tuition grant under  
22 paragraph 1 or 2 of this subsection if the children continue to attend a  
23 qualified school in a subsequent year.

24 ~~K.~~ L. In 2006, a school tuition organization shall not issue an  
25 educational scholarship or a tuition grant in an amount that exceeds four  
26 thousand two hundred dollars for students in a kindergarten program or grades  
27 one through eight or five thousand five hundred dollars for students in  
28 grades nine through twelve. In each year after 2006, the limitation amount  
29 for a scholarship or a grant under this subsection shall be increased by one  
30 hundred dollars.

31 ~~L.~~ M. A child is still eligible to receive an educational scholarship  
32 or tuition grant under subsection ~~J.~~ K of this section if the child meets the  
33 criteria to receive a reduced price lunch but does not actually claim that  
34 benefit.

35 ~~M.~~ N. The school tuition organization shall require that the children  
36 use the educational scholarships or tuition grants on a full-time basis. If  
37 a child leaves the qualified school before completing an entire school year,  
38 the qualified school shall refund a prorated amount of the educational  
39 scholarship or tuition grant to the school tuition organization that issued  
40 the educational scholarship or tuition grant to the child. Any refunds  
41 received by the school tuition organization under this subsection shall be  
42 allocated for educational scholarships or tuition grants to qualified  
43 children in the following year.

1       ~~N.~~ 0. Children who receive educational scholarships or tuition grants  
2 under this section shall be allowed to attend any qualified school of their  
3 parents' choice.

4       ~~O.~~ P. A school tuition organization that receives a voluntary cash  
5 contribution pursuant to subsection A of this section shall report to the  
6 department, in a form prescribed by the department, by June 30 of each year  
7 the following information:

8           1. The name, address and contact name of the school tuition  
9 organization.

10           2. The total number of contributions received during the previous  
11 calendar year.

12           3. The total dollar amount of contributions received during the  
13 previous calendar year.

14           4. The total number of children awarded educational scholarships or  
15 tuition grants during the previous calendar year.

16           5. The total dollar amount of educational scholarships and tuition  
17 grants awarded during the previous calendar year.

18           6. For each school to which educational scholarships or tuition grants  
19 were awarded:

20               (a) The name and address of the school.

21               (b) The number of educational scholarships and tuition grants awarded  
22 during the previous calendar year.

23               (c) The total dollar amount of educational scholarships and tuition  
24 grants awarded during the previous calendar year.

25           7. Verification that an independent review of financial statements  
26 according to generally accepted accounting principles was completed by a  
27 certified public accountant for the previous calendar year.

28       ~~P.~~ Q. The department shall adopt rules necessary for the  
29 administration of this section.

30       ~~R.~~ R. For the purposes of this section:

31           1. "Qualified school" means a nongovernmental primary school or  
32 secondary school:

33               (a) That is located in this state, that does not discriminate on the  
34 basis of race, color, handicap, familial status or national origin and that  
35 satisfies the requirements prescribed by law for private schools in this  
36 state on January 1, 2005.

37               (b) That annually administers and makes available to the public the  
38 aggregate test scores of its students on a nationally standardized  
39 norm-referenced achievement test, preferably the Arizona instrument to  
40 measure standards test administered pursuant to section 15-741.

41               (c) That requires all teaching staff and any personnel that have  
42 unsupervised contact with students to be fingerprinted.

43           2. "School tuition organization" means a charitable organization in  
44 this state that both:

1 (a) Is exempt from federal taxation under section 501(c)(3) of the  
2 internal revenue code and that allocates ninety per cent of its annual  
3 revenue for educational scholarships or tuition grants to children to allow  
4 them to attend any qualified school of their parents' choice.

5 (b) Provides educational scholarships or tuition grants to students  
6 without limiting availability to only students of one school.

7 Sec. 2. School tuition organizations; application and approval  
8 timeline for fiscal year 2006-2007

9 A. Notwithstanding any provision of section 43-1183, subsection D,  
10 Arizona Revised Statutes, as amended by this act, to the contrary, in fiscal  
11 year 2006-2007, a school tuition organization shall apply to the department  
12 of revenue within ten days after the effective date of this act and indicate  
13 the amount of contributions that taxpayers intend to contribute to the school  
14 tuition organization for the purposes of receiving a tax credit. Between the  
15 twentieth and thirtieth days after the effective date of this act, the  
16 department of revenue shall review the applications.

17 B. On reviewing the applications under subsection A of this section,  
18 the department of revenue shall preapprove the total amount of contributions  
19 that the school tuition organization may receive from each taxpayer in the  
20 manner prescribed in section 43-1183, subsection D, Arizona Revised Statutes,  
21 as amended by this act.